

1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF TEXAS
3 HOUSTON DIVISION

4 UNITED STATES OF AMERICA . CR. NO. H-09-390
5 VS. . HOUSTON, TEXAS
6 .
7 .
8 BARRY LERNARD LEWIS . NOVEMBER 12, 2010
9 a/k/a SIR LEWIS . 10:37 A.M. to 10:57 A.M.
10

11 TRANSCRIPT of SENTENCING
12 BEFORE THE HONORABLE MELINDA HARMON
13 UNITED STATES DISTRICT JUDGE
14

15 APPEARANCES:

16 FOR THE GOVERNMENT: MS. ANGELA S. GOODWIN
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20 MS. SHERRY ZACK
21 U.S Attorney's Office
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24 FOR THE DEFENDANT: MR. PETER W. JUSTIN
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Proceedings recorded by mechanical stenography, transcript
produced by computer-aided transcription.

APPEARANCES CONTINUED

PROBATION OFFICER

OFFICIAL COURT REPORTER: MS. KATHY L. METZGER
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P R O C E E D I N G S

THE COURT: Next case is No. Criminal H-09-390, United States versus Barry Larnard Davis.

MR. JUSTIN: Peter Justin for Barry Davis, Your Honor.

THE COURT: Good morning.

MS. GOODWIN: Angela Goodwin for the government, Your Honor.

THE COURT: Good morning.

MS. ZACK: Sherry Zack for the United States as well, Your Honor. Good morning.

THE COURT: Good morning.

You are Barry Larnard Davis?

THE DEFENDANT: Yes, ma'am.

THE COURT: In a previous proceeding you were found guilty of Count 1, sex trafficking of children, in violation of 18, United States Code, Section 1591(a); Count 2, transportation of minors with intent to engage in criminal sexual activity, in violation of 18, United States Code, Section 2423(a); and Count 3, coercion and enticement, in violation of 18, United States Code, Section 2422(a).

Mr. Davis, have you had a chance to read over this presentence report that was filed in your case?

THE DEFENDANT: Yes, ma'am.

THE COURT: And have you discussed it with Mr. Ash -- I'm sorry, Mr. Justin. I'm sorry. I called you Mr. Ash

1 before, too. I'm really sorry. Mr. Justin. How did I do
2 that? There's Mr. Ash over there, yeah. Okay. If that's the
3 only mistake I make today, we'll be in good shape.

4 All right. Have you discussed it with
5 Mr. Justin, your attorney?

6 *THE DEFENDANT:* Yes, ma'am.

7 *THE COURT:* Are you fully satisfied with the counsel,
8 representation, and advice given to you in this case by
9 Mr. Justin, your attorney?

10 *THE DEFENDANT:* Yes, ma'am.

11 *THE COURT:* All right. Mr. Justin made a number of
12 objections to the report, but I need to know before we discuss
13 those if you have any other objections that Mr. Justin didn't
14 make on your behalf to the presentence report?

15 *THE DEFENDANT:* Not at this time, ma'am.

16 *THE COURT:* No? Okay. All right. Mr. Justin?

17 *MR. JUSTIN:* Judge, I would just renew the objections
18 I have made.

19 *THE COURT:* Okay.

20 *MR. JUSTIN:* I think the way they're written will be
21 better off stated than I could orally, Judge, and I would ask
22 the Court to consider all the motions that I have made --

23 *THE COURT:* All right.

24 *MR. JUSTIN:* -- objections that I have made.

25 *THE COURT:* Okay. I'm going to overrule all of the

1 objections that you made for the reasons expressed by the
2 probation office in the response. I think they're perfectly
3 within the Sentencing Guidelines.

4 The only thing that I agree with you and the
5 probation officer agreed with you is that we should have -- the
6 probation officer agreed that they should have used the 2005
7 edition of the Guideline Manual and I believe they issued a new
8 report to that effect. So, I'm going to grant those. And,
9 otherwise -- I'm sorry. You wanted to say something?

10 *MS. GOODWIN:* No, Your Honor, before you do that, may
11 I just state the Department of Justice's opinion on the record
12 on that?

13 *THE COURT:* Yes, go ahead, yeah.

14 *MS. GOODWIN:* The U.S. Probation Office did amend
15 their PSR to reflect that; and it is the opinion of the
16 Department of Justice that it would not violate ex post facto
17 in that ever since *Booker*, the guidelines are merely
18 advisory --

19 *THE COURT:* Right.

20 *MS. GOODWIN:* -- and not law. So, the position of the
21 government is that the Court has the authorization to use
22 either the 2005 or the 2009 guidelines. Thank you.

23 *THE COURT:* Okay. Well, I'm going use the 2005. So,
24 other than that, I adopt the presentence report -- or I adopt
25 the revised presentence report as my own, both the findings of

1 fact and the application of the guidelines to the facts, find a
2 total offense level of 37, criminal history category of V,
3 which gives a guideline provision range of 324 to 405 months.

4 Mr. Justin, anything else you would like to say
5 before I pronounce sentence?

6 *MR. JUSTIN:* No, ma'am.

7 *MS. GOODWIN:* Only, Your Honor, that we have the
8 mother of the minor victim in the courtroom who would like to
9 read a letter to the Court.

10 *THE COURT:* All right.

11 *MS. GOODWIN:* And may she do so with a little bit of
12 physical space?

13 *THE COURT:* Sure. I'll just ask y'all to step aside a
14 little bit.

15 *MS. GOODWIN:* And she's asked for security purposed
16 that she only be referred to as Cassandra's mother.

17 *THE COURT:* All right. Okay. Would Cassandra's
18 mother step forward, please.

19 *CASSANDRA'S MOTHER:* In regards to Barry Davis, a/k/a
20 Sir Lewis, I'm Cassandra's mother. Finally someone asked to
21 hear my pain. Finally I can put the many tears I have wept to
22 paper, but at the same time I have to open the cuts of the
23 past, open the cuts of the present to do this. And I still
24 live the horrible lifestyle my daughter has learned from Barry
25 Davis, a/k/a Sir Lewis. My life is forever changed, as I have

1 scars that cut deep into my soul and a broken heart which feels
2 that there's a hole in it.

3 The daughter I once knew no longer exists, the
4 daughter that loved her family with all her heart, the daughter
5 who put others first before herself to show her deep love to
6 her family and friends. Now, once again, I do not know where
7 she is due to the behavior she learned from Barry Davis. I was
8 a parent who did everything to find her child back in the times
9 of Barry Davis. Sorry.

10 *THE COURT:* That's all right.

11 *CASSANDRA'S MOTHER:* I had multiple missing person's
12 reports, multiple dealings with different agencies, multiple
13 hospitalizations, and trying to find a solution to help my
14 daughter escape the path she was on. Picking her up from a
15 police department beaten, bruised, trying to get her to talk to
16 me and tell me the truth. Having to accept the lies just to be
17 happy she's still alive. Constantly on the phone. Constantly
18 collecting phone numbers. Always trying to find her with any
19 clue she might have accidentally left. Living daily but yet
20 feeling like I have lost control of my life because I could not
21 keep my own daughter safe due to something that was controlling
22 her.

23 I was always the one left to pick up the pieces.
24 I was the glue when Cassandra did try to escape the life at
25 very few points, but the glue did not have enough time to dry

1 as Barry Davis would once again control her life and her
2 lifestyle.

3 I believe that immediate family members of this
4 type of crime are also victims of the crime and they should be
5 part of the crime victims' compensation. As a mother of a
6 daughter who has a child that was sexually exploited, my life
7 has been mentally painful, consuming my life in grief and
8 emotionally exhausting. I would be able to help Cassandra more
9 if I'm able to help myself understand my own pain and her pain
10 together.

11 This crime with Barry Davis has affected years of
12 our past, the day we live today and the tomorrow and
13 furthermore, the future. I'm still left to pick up the pieces
14 of my grandchildren's lives because Cassandra's learned
15 behaviors from Barry Davis. She's given birth to two beautiful
16 babies, a 3-year-old and a 16-month-old. I am on Cassandra's
17 train and still trying to pick up her pieces. I've been
18 raising both children for over a year with my husband.

19 The 16-month-old was only 3 months old when
20 he/she came to live with me at our home due to a CPS case
21 Cassandra has to deal with. We have taken care of one child
22 off and on since birth to make sure he/she is safe. Both
23 children are victims of the horrific crime Barry Davis is
24 responsible for.

25 The children may be in Cassandra's heart, but

1 Barry Davis lives in Cassandra's head. We go for months
2 without seeing or hearing from Cassandra. The last time we saw
3 Cassandra was 15 minutes on this child's first birthday in
4 July. She was in a hurry to come home -- or she was in a hurry
5 to come and go as she was driving someone else's car. She said
6 she needed to get it back to them. It had been three months
7 since we had seen her before the birthday.

8 One child knows that Cassandra is mom, but calls
9 her by her name Cassandra. The other child does not know who
10 Cassandra is.

11 The role I'm forced to take is mom for my own
12 grandchildren. I have four natural born children who are now
13 all over the age of 18. I never intended my life to circle
14 into motherhood again.

15 Cassandra is emotionally unstable to be a mother
16 due to the emotional and physical abuse she sustained by Barry
17 Davis, a/k/a Sir Lewis. She's barely able to take care of her
18 own self. She continues to live state to state, hotel to hotel
19 in the dangerous lifestyle Barry Davis taught her as a child.
20 This dysfunctional life our family and Cassandra live is a
21 direct result of Cassandra learned behaviors that Barry Davis
22 led my example and taught her. The crime, she was a victim,
23 which will forever change her life and her family's life. We
24 are all experiencing the consequences of the crime, her
25 parents, her children, brothers, and sisters.

1 Birthdays and holidays are lonely to celebrate
2 due to this crime committed by Barry Davis. We are missing our
3 daughter Cassandra. Our family is in pieces. A mother has
4 lost her daughter. Brothers and sisters bonds have been broken
5 and two generations later our grandchildren's lives are
6 affected as they do not have fathers or their biological
7 mother, Cassandra.

8 *THE COURT:* Thank you.

9 *MS. GOODWIN:* That concludes the statement, Your
10 Honor.

11 *THE COURT:* All right. Mr. Davis, is there anything
12 you would like to say before I pronounce sentence?

13 *THE DEFENDANT:* No, ma'am.

14 *THE COURT:* Mr. Justin?

15 *MR. JUSTIN:* No, ma'am.

16 *THE COURT:* All right. Barry Larnard Davis, also
17 known as Sir Lewis, stands before the Court for sentencing
18 after being found guilty at trial of sex trafficking of
19 children, transportation of minors with intent to engage in
20 criminal sexual activity, and coercion and enticement.

21 The evidence revealed that the defendant was
22 engaged in the promotion of prostitution, that he recruited
23 juvenile and adult females to engage in prostitution, and that
24 he traveled across the United States seeking clients to engage
25 in prostitution with the juvenile and adult prostitutes he had

1 recruited.

2 He has three prior felony drug convictions, one
3 felony conviction for aggravated assault, and one misdemeanor
4 driving while intoxicated conviction.

5 The guidelines as calculated in this case
6 adequately capture the factors in this offense and I believe
7 that a sentence at the high end of the guideline range is
8 appropriate in this case. Also, a life term of supervised
9 release will allow the probation officer to monitor the
10 defendant's reintegration into the community and provide him
11 with any needed community referrals or sex offender treatment.

12 Pursuant to the Sentencing Reform Act of 1984, it
13 is the judgment of the Court that the defendant, Barry Larnard
14 Davis, also known as Sir Lewis, is hereby committed to the
15 custody of the Bureau of Prisons to be imprisoned for a term of
16 405 months on each of Counts 1 and 2 and 405 months as to Count
17 3, all to be served concurrently, for a total term of 405
18 months.

19 *PROBATION OFFICER:* Your Honor --

20 *THE COURT:* I'm sorry.

21 *PROBATION OFFICER:* -- the statutory maximum on Count
22 3 is 240 months.

23 *THE COURT:* I'm sorry. You're right about that. I'm
24 sorry. Count 3, 240 months, all to be served concurrently, for
25 a total of 405 months.

1 Upon release from imprisonment the defendant
2 shall be placed on supervised release for a term of life. This
3 term consists of life as to each of Counts 1, 2, and 3, all
4 such terms to run concurrently.

5 Within 72 hours of release from the custody of
6 the Bureau of Prisons, the defendant shall report in person to
7 the probation office in the district to which the defendant is
8 released.

9 While on supervised release the defendant shall
10 not commit another federal, state, or local crime; shall comply
11 with the standard conditions that have been adopted by this
12 Court under General Order No. H 1996-10; abide by any mandatory
13 conditions required by law; and shall comply with the following
14 additional conditions: The defendant shall not possess a
15 firearm, ammunition, destructive device, or any other dangerous
16 weapon.

17 The defendant shall cooperate in the collection
18 of a DNA sample from the defendant if the collection of such a
19 sample is authorized pursuant to Section III of the DNA
20 Analysis Backlog Elimination Act of 2000.

21 The defendant shall report the address where the
22 defendant will reside and any subsequent change of residence to
23 the probation officer responsible for supervision.

24 And the defendant shall register with the sex
25 offender registry agency in any state where the defendant

1 resides, is employed, carries on a vocation, or is a student,
2 as directed by the probation officer.

3 The probation officer will provide the state
4 officials with any and all information required by the state
5 sex offender register agency and may direct the defendant to
6 report to that agency personally for additional processing,
7 such as photographing and fingerprinting.

8 The defendant shall participate in a mental
9 health treatment program and/or sex offender treatment program
10 provided by a registered sex offender treatment provider as
11 approved by the United States probation officer, which may
12 include, but not be limited to, group and/or individual
13 counseling sessions, Abel Screen, polygraph testing, and/or
14 psycho-psychological testing to assist in treatment and case
15 monitoring administered by the sex offender contractor or its
16 designee.

17 Further, the defendant shall participate as
18 instructed and shall abide by all policies and procedures of
19 the sex offender program until such time as the defendant is
20 released from the program as approved by the United States
21 Probation Office. The defendant will incur costs associated
22 with such sex offender treatment program and testing based on
23 ability to pay as determined by the United States probation
24 officer.

25 The defendant shall waive his right of

1 confidentiality in any records for mental health treatment
2 imposed as a consequence of this judgment to allow the
3 supervising United States probation officer to review the
4 defendant's course of treatment and progress with the treatment
5 provider.

6 If requested by the mental health provider, the
7 Court authorizes the United States probation officer to provide
8 pertinent information from the presentence investigation report
9 and any information available for mental health evaluations
10 that are in the possession of the probation officer.

11 The defendant shall not seek or maintain
12 employment, supervise, volunteer, or participate in any program
13 and/or activity where minors under the age of 18 would
14 congregate without prior written approval of the United States
15 probation officer. This would include athletic, religious,
16 volunteer, civic, or cultural activities designed for minors
17 under the age of 18.

18 The defendant shall not have any contact with any
19 minor children under the age of 18 without prior written
20 permission of the United States probation officer.

21 The defendant shall not date or cohabitate with
22 anyone who has children under the age of 18 unless approved in
23 advance in writing by the United States probation officer.

24 The defendant shall not view, possess, or have
25 under his control any nude depictions of children sexually

1 oriented or sexually stimulating materials, including visual,
2 auditory, telephonic, or electronic media, computer programs or
3 services. The defendant shall not patronize any place where
4 such material or entertainment is in the primary source of
5 business -- is the primary source of business.

6 The defendant shall not utilize any sex related
7 telephone numbers.

8 The defendant shall have no contact with the
9 victim or the victim's family, including letters, communication
10 devices, audio or visual devices, visits, or any contact
11 through a third party without prior written consent of the
12 United States probation officer.

13 It is further ordered that the defendant shall
14 pay to the United States a special assessment of \$100 as to
15 Counts 1, 2, and 3 for a total of \$300.

16 The Court finds that the defendant does not have
17 the ability to pay a fine and will waive the fine in this case.

18 Having assessed the defendant's ability to pay,
19 payment of the total criminal monetary penalties shall be due
20 as follows: The defendant shall make a lump sum payment of
21 \$300 due immediately. Payment is to be made through the United
22 States District Clerk, Southern District of Texas. Payment of
23 criminal monetary penalties shall be due during the period of
24 imprisonment.

25 Mr. Davis, you have a right to appeal your

1 conviction and your sentence. If you do not have the funds to
2 pay for an attorney, one will be provided for you at
3 government's expense, along with any transcripts or other
4 documents that may be needed for your appeal.

5 *MR. JUSTIN:* Judge, he does want to appeal. We signed
6 a notice of appeal today. We have not filled out any
7 information concerning his pauperis status. May we do that
8 this morning before we leave?

9 *THE COURT:* Yes. Why don't you do that with the duty
10 magistrate and have the duty magistrate take care of making any
11 appointments.

12 *MR. JUSTIN:* Okay.

13 *THE COURT:* Okay.

14 *MR. JUSTIN:* Thank you, Judge.

15 *THE COURT:* All right.

16 *MS. GOODWIN:* And, Your Honor, I have a proposed final
17 order of forfeiture for some of the property that we listed in
18 the indictment.

19 *THE COURT:* All right. I've signed the final order of
20 forfeiture in the case.

21 All right. Anything else?

22 *MR. JUSTIN:* No.

23 *MS. GOODWIN:* No, Your Honor.

24 *THE COURT:* All right. Thank you all very much. You
25 may be excused. Thank you.

1 MS. GOODWIN: Thank you, Your Honor.

2 (Concluded at 10:57 a.m.)

3 * * *

4 I certify that the foregoing is a correct transcript from the
5 record of proceedings in the above-entitled cause, to the best
6 of my ability.

7

8 /s/ Kathy L. Metzger
9 Kathy L. Metzger
 Official Court Reporter

2-23-11
 Date

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